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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,077	12/30/2003	Paul D. Stephens	RYL 2 0745-1	1258
27885	7590	04/04/2006	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			TILL, TERRENCE R	
		ART UNIT		PAPER NUMBER
				1744

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/751,077	STEPHENS ET AL.	
	Examiner	Art Unit	
	Terrence R. Till	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 8-10,12-21,23-63 and 65-77 is/are pending in the application.
 - 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) 13,18,21,23-49,51-58,63 and 65-77 is/are allowed.
- 6) Claim(s) 8-10,12,14-16,19,20,50,61 and 62 is/are rejected.
- 7) Claim(s) 17,59 and 60 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 50 and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by Sepke et al. '702 (cited previously).

3. Sepke et al. disclose a vacuum cleaner comprising a base unit 101, including a nozzle opening, a housing 102 pivotally mounted on said base unit; a suction source (see column 2, lines 25-30), mounted to said housing and communicating with said nozzle opening; a dirt receptacle 106 mounted to said housing, said dirt receptacle comprising a base wall 111, a side wall (see figure 1B) and an open upper end, said dirt receptacle comprising a filtration chamber, a filter 114, 124, including a frame 126 removably mounted in said filtration chamber; a lid 116 selectively covering said open upper end of said dirt receptacle; an inlet 130 to said filtration chamber, said inlet being located in said lid; and, an outlet 110, 187 from said filtration chamber.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1744

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 8-10, 12, 14-16, 19 and 20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Yung in view of Wright et al. (6,003,196).

8. The patent to Yung discloses a base unit 18; a housing 12 pivotally mounted on said base unit; a suction source 28 mounted to said housing; a dirt receptacle 16 mounted to said housing, said dirt receptacle comprising a base wall, a side wall and an open upper end; a cylindrical filter 76 removably mounted in said dirt receptacle; and a lid 82 selectively covering said open upper end of said dirt receptacle, wherein said lid comprises a diverter wall 46 to channel an airstream flowing into said dirt receptacle into a cyclonic flow. The filter 124, mounted in a frame 34 for supporting said filter, removably mounted in said filtration chamber; and a suction duct 92

connecting said axial chamber outlet with said suction source housing; said suction duct extending along an axis of said cyclonic airflow chamber. Yung does not disclose an exhaust filter housing with an exhaust filter. However, Yung does disclose of using an exhaust filter in the vacuum cleaner (see column 2, lines 15-23). There is no mention of how the filter is mounted, nor a PTFE-type filter. The patent to Wright '196 discloses a very similar upright vacuum cleaner and additionally discloses an exhaust filter housing "F" which contains a PTFE exhaust filter. It would have been obvious to a person skilled in the art at the time the invention was made to provide the device of Yung with an exhaust filter housing with a PTFE exhaust filter in view of the teaching of Wright et al. '196 as the exhaust filter of Yung would naturally need a housing and use of PTFE filter material was known at the time of the invention for its filtering ability.

9. Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sepke et al. in view of Rench et al.

10. The patent to Sepke et al. discloses all the recited subject matter with exception of said filter comprises a pleated filter medium. The patent to Rench et al. shows that a cyclonic separator with a pleated filter 23 (column 8, lines 1-5) located inside the chamber is an equivalent structure known in the art. Therefore, because these two filter devices were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the filter of Sepke et al. for the pleated filter of Rench et al.

Allowable Subject Matter

11. Claims 13, 18, 21, 23-49, 51-58, 63 and 65-77 are allowed.

12. Claims 17, 59 and 60 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

13. Applicant's arguments filed 1/17/06 have been fully considered but they are not persuasive. With respect to claims 8-10, 12, 14-16, 19 and 20 and the rejection of Yung in view of Wright '196, the term "along" is defined as "on or beside the length of; over or throughout the length of". As such, the duct 92 is *along* an axis of said cyclonic airflow chamber. See the copy of Webster's New World Dictionary, Third College Edition, (copyright 1988) which is provided. "Along" is not synonymous with "co-axial" or "co-incident". With respect to claims 50, 61 and 62, a new grounds has been applied due to applicants' amendment.

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys P. Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Terrence R. Till
Primary Examiner
Art Unit 1744

trt